Seizure and Impoundment Registry

Annual Report 2002-2003

Manitoba

104-00491/

ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable Peter M. Liba, C.M.
Lieutenant-Governor of Manitoba

MAY IT PLEASE YOUR HONOUR:

It is my privilege to present, for the information of Your Honour, the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2003.

Respectfully submitted,

Honourable Gord Mackintosh
Minister of Justice
Attorney General

Manitoba

Deputy Minister of Justice
and Deputy Attorney General

Room 110
Legislative Building
Winnipeg MB R3C 0V8

Honourable Gord Mackintosh
Minister of Justice
Attorney General of Manitoba
Room 104 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Sir:

I submit for your approval the Annual Report of the Seizure and Impoundment Registry for the year ending March 31, 2003.

Respectfully submitted,

Bruce A. MacFarlane, Q.C.
Deputy Minister of Justice and
Deputy Attorney General

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Introduction

In November 1989, the Government of Manitoba enacted legislation to reduce the negative social impacts associated with impaired and suspended drivers.

Under this legislation, peace officers were given expanded powers to seize and impound a motor vehicle when they had reason to believe it was being operated by a person who was suspended, disqualified or otherwise prohibited from driving in Manitoba.

Since November 1989, the Vehicle Impoundment Program has expanded in two ways:

a) the current vehicle impoundment sanctions for driving while disqualified were extended to include alcohol-related offences and as well, amendments were introduced to extend the impoundment sanctions to the operators of off-road vehicles.

b) the Government introduced measures that result in the forfeiture of vehicles where an offender is convicted of a prostitution-related offence.

The Seizure and Impoundment Registry is the administrative centre where the status of each vehicle seized in the Province of Manitoba is recorded. Records maintained by the Registry include the name of the driver, the owner, the police agency, and the location of each seizure. As well, statistics are kept as to the number of hearings conducted by justices, all claims that the owner or garage keeper has applied for, and the number of wrongful seizures. The Registry also maintains continuous contact with any garage keeper that stores a vehicle impounded under this legislation.

Program Summary

a) Suspension and Alcohol-Related Seizures

In November 1989, legislation was introduced to allow a peace officer to seize and impound a motor vehicle for 30 days, if operated while the driver was suspended or prohibited from driving.

Since November of 1989, the following changes to the legislation have been enacted:

- In December 1991, the impoundment period increased to 60 days for an owner considered to be a repeat offender within a two-year period.
- In September 1997, the extension period for repeat offenders increased to 90 days, the administration fee increased to $75, and the application fee for a revocation hearing increased to $100.
- In December 1999, the offences of Drive Over .08 and Refuse to Provide Breath or Blood Sample were included in the seizure provisions. As well, off-road vehicles are now considered to be motor vehicles for the seizure legislation.
- On December 1, 2000, the legislation was further amended to double the impoundment periods for certain offenders. As a result, people driving with a blood alcohol level over .16 or drivers who refuse to provide a breath or blood sample will lose their vehicle for 60 days on a first offence, and 180 days for a second offence. Each subsequent offence will add another 60 days to the impoundment period. As well, the time period for calculating a repeat offence increased from two years to five years.
- In July 2002, the administration fee increased to $115.

An owner has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The impoundment may be revoked if the justice is satisfied that:

a) the owner could not reasonably have been expected to know that the person driving the motor vehicle:
   - was suspended or prohibited from driving;
   - would operate or have care or control of a vehicle while their blood alcohol level was over .08;
   - would fail or refuse to provide a breath sample.

OR

b) the owner did not know that he or she was suspended or prohibited from driving.

The designate of the Minister of Justice may release the motor vehicle if he or she is satisfied that the vehicle has been wrongfully seized and impounded, or if the vehicle was reported stolen at the time of the impoundment.

This legislation also gives the designate of the Minister of Justice the authority to transfer the ownership of any vehicle to the garage keeper who stores it if the vehicle remains unclaimed after the expiration of the impoundment period, and if the value of the vehicle is less than the amount owing to the garage keeper.

Upon completion of the impoundment period, the owner of the vehicle is liable for all costs related to the impoundment of the vehicle, including the costs of towing, storage and the $115 administration fee levied to offset the provincial cost to administer the program. On average, the total cost to the owner to have his or her vehicle released is approximately $445 after completion of the 30-day impoundment period or approximately $719 after completion of a 60-day impoundment period.

Under Section 242.1(12) of The Highway Traffic Act, the owner of the motor vehicle may seek to recover any costs from the person who was the driver at the time the motor vehicle was seized.

b) Prostitution-Related Seizures

In March 1999, legislation was introduced to allow a peace officer to seize and impound a motor vehicle if operated in the course of committing a prostitution-related offence under the Criminal Code.

If an owner is convicted of the offence, the vehicle is forfeited to the Province of Manitoba with the net proceeds from the sale of the vehicle used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

If the driver of a seized vehicle is eligible for a program of alternative measures, the vehicle can be released subject to payment of the appropriate costs and charges.

The owner, who is not the driver, has the right to apply to a justice for a hearing to revoke the impoundment of his or her vehicle. The justice may revoke the impoundment if he or she is satisfied that the owner could not reasonably have known that the vehicle was being operated in the course of committing a prostitution-related offence.

If an owner is charged with a prostitution-related offence, he or she may apply to the designate of the Minister of Justice for the release of the vehicle on deposit of a sum of money or security for money equal to the value of the vehicle. If the owner is convicted of the charge, the deposit is forfeited to the Province of Manitoba. If the owner is not convicted of the charge, the deposit is returned.

Impoundment Program Results

a) Suspension and Alcohol-Related Seizures

During the reporting period, 3,663 vehicles were impounded, compared to 3,636 vehicles impounded during the same period in F2001-02. This represents a one year increase of 27 seizures or 0.74%. Of the 3,663 vehicles seized, 44 were off-road vehicles seized as a result of a suspension or an alcohol-related offence.

There are currently 65 Justices who have been appointed by the Chief Judge of the Provincial Court of Manitoba to conduct impoundment hearings. In F2002-03, 925 owners applied for a revocation hearing and 768 or 83% successfully had their impoundments revoked before the expiration of the impoundment period. Of the total seizures in F2002-03, 21% were revoked, whereas 4.3% of the total seizures were ordered to be continued.

There are currently 181 garage keepers registered with the Vehicle Impoundment Program, with approximately 108 participating on a monthly basis.

b) Prostitution-Related Seizures

During the reporting period, 42 vehicles were impounded. Of these seized vehicles, 31 or 73.8% were released as a result of the driver being eligible for the alternative measures program. Five of the owners applied to a justice and were successful in having the vehicle released. Three vehicles were released based on the owner depositing security to release the vehicle. One deposit was returned as a result of no conviction being entered. There are two vehicles that remain impounded pending the disposition of the criminal charges.

Since the introduction of this legislation, one vehicle and two security deposits have been forfeited to the Province of Manitoba as a result of convictions being entered. The net proceeds will be used to assist groups or organizations that support or deliver programs to reduce the occurrence of prostitution-related offences.

Tables and Supporting Charts

a) Suspension and Alcohol-Related Seizures

A summary of results for the reporting period is provided in Tables 1 to 7 and Chart 1 attached to this report. The data contained in this report is based on information forwarded by various police agencies, court offices, garage keepers and Justices throughout the Province.

Reported numbers from previous years may vary from previously issued reports as the data is continually updated with information that may be received from the various agencies after the reporting date.

Table 1

Monthly Statistics for the fiscal year ending March 31, 2003

Month	Total Vehicles Seized	Vehicles Claimed		Vehicles Disposed / Unclaimed	
April 2002	291	223	77%	68	23%
May 2002	335	251	75%	84	25%
June 2002	356	279	78%	77	22%
July 2002	358	283	79%	75	21%
August 2002	345	254	74%	91	26%
September 2002	306	218	71%	88	29%
October 2002	305	220	72%	85	28%
November 2002	288	206	72%	82	28%
December 2002	314	220	70%	94	30%
January 2003	240	145	60%	95	40%
February 2003	245	107	44%	138	56%
March 2003	280	37	13%	243	87%
Total Vehicles Seized	**3663**	**2443**	**67%**	**1220**	**33%**

Table 2

Status of Vehicles Seized

Vehicles Claimed		2443
Vehicles Transferred		86
Vehicles Auctioned		170
Vehicles Released		129
Vehicles Unclaimed		
60 days & under	385	
61 to 90 days	77	
91 days & over	373	
Total		835
Total Number of Vehicles Seized		**3663**

Table 3

Age Analysis

This table represents data for the fiscal year April 1, 2002 to March 31, 2003.

Age of Driver	April 1, 2002 to March 31, 2003	
16 to 20	611	16.68%
21 to 25	748	20.42%
26 to 30	522	14.25%
31 to 35	444	12.12%
36 to 40	418	11.41%
41 to 45	352	9.61%
46 to 50	224	6.12%
51 to 55	144	3.93%
56 to 60	84	2.29%
61 to 65	53	1.45%
66 to 70	32	0.87%
71 to 75	17	0.46%
76 to 80	8	0.22%
81 plus	6	0.16%
	3663	**100.00%**

Chart 1

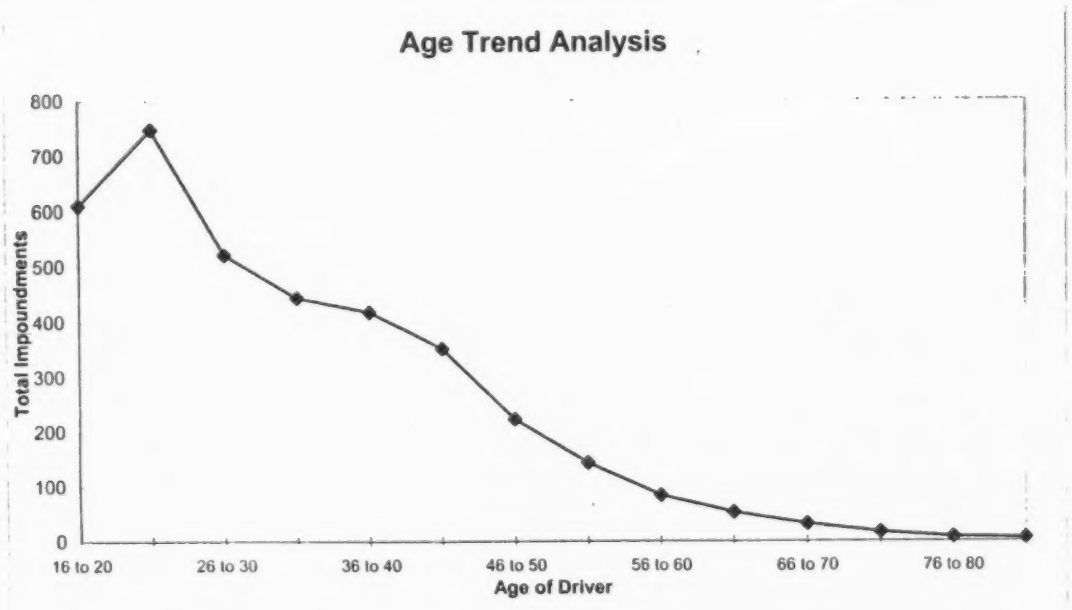

Table 4

Seizures and Applications for Orders of a Justice Section 242.1(4) of The Highway Traffic Act

(A hearing for the revocation of an impoundment of a motor vehicle)

This table represents data for the fiscal year April 1, 2002 to March 31, 2003.

Region	Total Vehicles Seized		Applications to Revoke (% - total seizures)		Seizures Revoked (% - total applications)		Seizures Continued (% - total applications)	
Winnipeg	1566	43%	582	37%	475	82%	107	18%
Regional	2097	57%	343	16%	293	85%	50	15%
Total	**3663**	**100%**	**925**	**25%**	**768**	**83%**	**157**	**17%**

The total number of applications to revoke represents 25% of the total seizures for the reporting period.

Successful revocations represents 83% of all applications.

Table 5

Extension of Vehicle Impoundment for Repeat Offenders Sections 242.2(7.1.1) & (7.1.2) of The Highway Traffic Act

Month	Extensions Issued	Extensions Completed	Impoundment Revocations
April 2002	38	37	1
May 2002	41	36	5
June 2002	37	33	4
July 2002	44	41	3
August 2002	45	44	1
September 2002	40	36	4
October 2002	42	37	5
November 2002	43	39	4
December 2002	39	36	3
January 2003	42	35	7
February 2003	36	36	0
March 2003	31	30	1
TOTAL	**478**	**440**	**38**

On December 1, 1991, legislation was proclaimed to extend the impoundment period from 30 to 60 days for owners with more than one occurrence within a two-year period.

On September 1, 1997, the legislation was amended to increase the extended impoundment period from 60 to 90 days for the owner who has had a previous occurrence.

On December 1, 2000, the legislation was amended to allow for increased impoundment periods for repeat offenders. Where the legislation previously allowed for owners to receive an extended impoundment period of 90 days, regardless of the number of prior offences, the amendments now allow for 60 days to be added to the initial impoundment period for each subsequent offence that an owner has committed.

Of the total number of vehicles seized in the F2002-03 fiscal year, 13% were impounded for an additional period under this section of The Highway Traffic Act. In this fiscal year, the number of extensions issued has increased by 31% or 113 seizures as compared to the previous fiscal year.

Note: Since proclamation of this legislation, a total of 3,505 extensions were issued from the Impoundment Registry. This figure represents 12.7% of the 27,592 seizures issued over the period of the legislation allowing extensions.

Table 6

Number of Offenders - Repeat Owners

This table represents the number of owners who have had a vehicle seized and impounded on two or more occasions. Effective December 1, 2000, subsequent offences that occur within a five-year period are recorded as a repeat offence.

This data includes owners who were either the driver of the vehicle or who had, on more than one occasion, allowed their vehicle to be operated by a different driver.

Owners	Number of Offenders	Number of Vehicles Involved	Vehicles Driven by Owner	Vehicles Driven by Another
2x repeaters	1128	2256	1105	1151
3x repeaters	185	555	244	311
4x repeaters	41	164	61	103
5x repeaters	7	35	12	23
6x repeaters	3	18	5	13
7x repeaters	0	0	0	0
8x repeaters	1	8	0	8
9x repeaters	1	9	0	9
10x repeaters	0	0	0	0
11x repeaters	1	11	0	11
12x repeaters	0	0	0	0
13x repeaters	1	13	0	13
45x repeaters*	1	45	0	45
Total	**1369**	**3114**	**1427**	**1687**

Note: As the legislation was intended to focus on the owner of the vehicle as the responsible party, the analysis concentrates on repeat owner statistics. During the same reporting period 3,858 vehicles were seized in which the driver of the vehicle had been involved in a previous impoundment either as the owner of a seized vehicle or as the driver of a vehicle owned by another party.

Repeat drivers account for 27.4% of all seizures over the same period.
Repeat owners account for 22.1% of all seizures over the same period.

*This repeat offender represents a car rental business, not an individual person.

Table 7

Financial Report

Note: This report includes revenue received from vehicle seizures as a result of suspension and alcohol-related offences, as well as prostitution-related offences.

Revenue	April 1, 2002 to March 31, 2003	
Provincial Fees Collected:		
Suspension/Alcohol-Related Offences	$269,282.25	
Prostitution-Related Offences	$3,340.00	
Total Revenue		**$272,622.25**
Claims/Refunds:		
Suspension/Alcohol-Related Offences		
-Provincial fees refunded	($115.00)	
-Claims settled for direct costs	($586.07)	
Prostitution-Related Offences		
-Provincial fees refunded	0.00	
-Claims settled for direct costs	0.00	
Total Costs		**($701.07)**
Net Revenue		**$271,921.18**